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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION ONE

THE PEOPLE,  
Plaintiff and Respondent,  
v.  
DOMINIC DEFEQ,  
Defendant and Appellant.

A106796

(San Francisco Super. Ct.  
No. 190717)

Defendant Dominic Defeo pleaded guilty to a violation of Penal Code section 273.5, subdivision (a), infliction of injury on a cohabitant. His motion to withdraw his plea was denied. He was placed on probation and ordered to complete a 52-week domestic violence, drug and alcohol counseling program. It was understood that his felony conviction was reducible to a misdemeanor if he successfully completed probation.

He appeals, contending the denial of his motion to withdraw his plea was wrongly denied. Defendant's counsel filed an opening brief that raises no issues and asks this court for an independent review as required by *People v. Wende* (1979) 25 Cal.3d 436. We have reviewed the record on appeal and find that there are no meritorious issues to be argued or briefed.

**Summary of facts**

An intervening bystander on a San Francisco street tried to stop defendant from striking Deanna Carvalho multiple times on her face. A police officer saw what was

happening and arrested defendant. The victim had fresh facial injuries and some old bruises. Ms. Carvalho told the officer that she lived with defendant and that he had hit her during the past two days. They had been drinking and arguing. Defendant became angry and struck her in the face while they were walking.

### **Change of Plea**

After plea negotiations, defendant's counsel, Sandy Feinland, explained the terms of the agreement, advised defendant of his constitutional rights, the consequences of his plea, the terms of probation, discussed the stay away order involving Ms. Carvalho and how to remove it so that they could marry. Defendant was told that if he complied with the conditions of probation that included counseling, the matter would be reduced to a misdemeanor. Defendant said that he understood what his attorney had explained, personally gave up his rights, and then entered a plea of guilty. The deputy district attorney had also explained the charge was reducible if defendant successfully completed counseling and he did not pick up any new arrests.

### **Motion to Withdraw Plea**

Four months later, new counsel filed a motion to withdraw the guilty plea on the grounds that defense counsel had not explained that completion of the 52-week counseling program was mandatory. Counsel submitted extensive medical records from 2002 and 2003 documenting defendant's medical problems, including a bipolar disorder. Defendant in a declaration stated that on the date of his plea he was hostile, confused and irrational because of a lack of medication. Defendant maintained he was innocent of the charge. Former defense counsel Feinland submitted a declaration that outlined the terms of the plea bargain including the completion of 52 weeks of domestic violence counseling. Feinland stated that Defeo appeared to think that his probation would terminate when the charge was reduced and that he appeared anxious and desperate to get out of custody and had a short attention span. Feinland also stated Defeo suffered from mood swings that affected his judgment.

The court reviewed defendant's motion, the people's opposition, and denied the motion because defendant had not demonstrated good cause. The court cogently

explained that defendant had been advised of the domestic violence counseling and appeared to understand the proceedings, with the judge finding the plea was knowing and voluntary. The jail medical record for the date of defendant's plea, December 15, 2003, stated that defendant's "thought was organized" and the medical provider worked on coping strategies to relieve his anxiety. Defense counsel did not state that defendant did not understand what he was doing.

The motion was properly denied. The court did not abuse its discretion when it found defendant failed to establish good cause with clear and convincing evidence. Competent counsel represented defendant at all stages of the proceedings.

The judgment is affirmed.

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Marchiano, P.J.

We concur:

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Swager, J.

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Margulies, J.